

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

Chapter 12  
BKY 21-60376

Richard Roman Lahr  
Debtor.

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**TRUSTEE RESPONSE TO DEBTOR'S MOTION TO INCUR DEBT**

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1. Kyle L. Carlson, Chapter 12 Trustee, files this response in objection to the debtor's motion to incur debt.

2. The Trustee does not oppose the general concept of the debtor's proposal to incur secured indebtedness to obtain financing for the debtor's 2021 farming operation. However, the Trustee notes the following issues with the motion and proposed orders.

3. The debtor's motion and proposed order indicate that he is requesting authority to obtain credit secured by a lien on property of the estate that is not otherwise subject to a lien pursuant to 11 U.S.C. § 364(c)(2). However, the debtor's motion indicates that Kensington Bank will receive a lien not only in the otherwise unencumbered 2022 crop, but also in the debtor's real estate which is subject to the perfected security interests of Falcon National Bank. Accordingly, it appears the debtor is seeking authority to obtain credit secured by a junior lien on property of the estate that is subject to a lien, pursuant to 11 U.S.C. § 362(c)(3).

4. The Trustee objects to the granting of a lien the debtor's non-homestead real estate identified in Section 1.1 of Schedule A, tax id parcel numbers 26.15492.0013 and 26.15412.0000. Pursuant the terms of the plan proposed for confirmation, after payment of costs of closing and the secured claim of Falcon Bank, the surplus proceeds from the sale of these two parcels are to be paid to unsecured creditors in partial satisfaction of the best interests of creditors test. Accordingly, the motion and order directly conflict with the terms of the plan. In addition, the ability of unsecured creditors to realize payment would be seriously jeopardized should the Court grant authorize the granting of liens against these parcels.

5. The debtor did not serve the moving documents on the United States Attorney for the District of Minnesota. Such service is required under Local Rule 9013-3(a)(1).

WHEREFORE, the Trustee requests that the motion be denied.

Dated: 4-19-22

/e/ Kyle L. Carlson

Kyle L. Carlson, Chapter 12 Trustee  
PO Box 519  
Barnesville, MN 56514  
218-354-7356

## **VERIFICATION**

I, Kyle L. Carlson, Chapter 12 Trustee, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: 4-19-22

/e/ Kyle L. Carlson  
Kyle L. Carlson, Trustee

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**UNSWORN DECLARATION FOR PROOF OF SERVICE**

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The undersigned declares that on the date indicated below, I served the attached response upon all entities named below by first class mail postage prepaid and to any entities who are Filing Users, by automatic e-mail notification pursuant to the Electronic Case Filing System:

Richard Roman Lahr  
25933 180th ST  
Paynesville, MN 56362

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: 4-19-22

/e/ Patty Halverson  
Patty Halverson  
Chapter 12 Office